

MYSORE LEGISLATIVE ASSEMBLY.

THIRD DAY.

Saturday, 5th March 1960.

The House met in the Assembly Hall, Vidhana Soudha, Bangalore, at Thirty Minutes past Eight of the Clock.

MR. SPEAKER (SRI S. R. KANTHI, B.A., LL.B.) in the Chair.

STARRED QUESTIONS

(to which oral answers were given)

Appeals before the Deputy Commissioner of Commercial Taxes, Mysore Division.

*Q.—1. SRI V. SRINIVASA SHETTY (Coondapur).—

Will the Government be pleased to state :—

(a) the number of appeals filed before the Deputy Commissioner of Commercial Taxes, Mysore Division, for the periods 1st November 1956 to

31st March 1957, 1st April 1957 to 31st March 1958 and 1st April 1958 to 31st March 1959 (Districtwise figures may be furnished);

(b) the number of appeals in which stay, absolute or conditional, had been granted (Districtwise figures may be furnished);

(c) in how many cases the Commissioner delivered judgments more than a month after hearing the appeals from South Kanara;

(d) the maximum time taken for pronouncing judgments after the hearing in appeals from South Kanara?

A.—SRI T. MARIAPPA (Minister for Finance).—

(a).—

Period	Mysore	Mandya	Hassan	Shimoga	Chikmagalur	Coorg	South Kanara	Total	Disposals
1-11-56 to 31-3-57	77	11	28	38	13	...	21	188	
1-4-57 to 31-3-58	149	17	78	74	12	330	
1-4-58 to 31-3-59	380	16	191	322	27	...	298	1234	648 (appeals) + 94 (Revisions).

(b).—

1958-59

1-4-58 to 31-3-59 5 5

(No absolute stay orders are issued. But only postponement of payment is given.)

(c).—

1-4-58 to 31-3-59 20 20 ...

(d) Four months.

NOTE :—It is presumed that the word “Commissioner” in clause (c) of the question refers to the “Deputy Commissioner.”

Sri V. SRINIVASA SHETTY.—Supplementary to (b): why is this officer not granting stay absolute or temporary in the appeals before him?

†**Sri J. H. SHAMSUDDIN** (Deputy Minister for Finance).—Normally stays are not granted in appeals. It is a policy.

Sri V. SRINIVASA SHETTY.—Have the Government come to know that this so-called policy of the Government or of the Officer has been adversely commented upon by the High Court recently?

Sri J. H. SHAMSUDDIN.—I am not aware.

Sri V. SRINIVASA SHETTY.—I will put a question with regard to (c) and (d). Is it the normal policy of the Government, with regard to appeals of South Kanara District particularly, to deliver judgments nearly four months after, even in simple appeals? Why is this policy of the Government or this Officer directed against South Kanara?

Sri J. H. SHAMSUDDIN.—There is no district singled out for particular treatment. In South Kanara, there were some technical and legal difficulties in disposing of cases. There were different officers. After the new Act came into force, the question arose whether the transactions between the two parts of the State could be brought in under one or the other Act. Therefore legal complications came in and there was some delay.

Sri V. SRINIVASA SHETTY.—When did these legal difficulties arise and when did they disappear?

Sri J. H. SHAMSUDDIN.—It arose and it is now disappearing.

Sri V. SRINIVASA SHETTY.—When did it disappear?

Sri J. H. SHAMSUDDIN.—It has started to disappear.

Sri C. K. RAJIAH SETTY.—Is it not a fact that this officer is delaying judgments and directing officers to collect the taxes, giving stringent reminders?

Sri J. H. SHAMSUDDIN.—The question of directing officers does not arise. If the stay is not given the collection will go on until the judgment is delivered.

Sri C. K. RAJIAH SETTY.—That is why the Officer is delaying pronouncing judgments and making officers to collect by force.....

Sri J. H. SHAMSUDDIN.—That is not the case. There were some legal difficulties in the interpretation of the Acts and therefore there was some delay.

Sri B. VAIKUNTA BALIGA.—May I know whether it is the policy of the Government or have they given instructions to refuse stays?

Sri J. H. SHAMSUDDIN.—No, Sir. Government have not given instructions. Normally stays are not given.

Sri B. VAIKUNTA BALIGA.—I am not able to understand why stays are not normally given. Will the Government be pleased to go into the question and see that stays are granted with regard to taxes objected to?

Sri J. H. SHAMSUDDIN.—The policy is that if a man wants to appeal, he must pay the assessed tax. That principle is nullified if stay is granted without the conditions being fulfilled. Therefore normally stays are not given.

Sri G. N. PUTTANNA.—If a man wants to appeal what is it that he has to pay?

Sri J. H. SHAMSUDDIN.—The Act says that the assessed tax has to be paid before appealing for stay. Normally stays are not given.

Sri G. N. PUTTANNA.—May I know whether it is tax imposed that has to be paid before appeal?

Mr. SPEAKER.—The Act is there.

Sri G. N. PUTTANNA.—The Act is there. That is why I appeal to the Government to look into the matter and find out whether judgments are unnecessarily delayed or not.

Sri J. H. SHAMSUDDIN.—Sir, the Act lays down that no appeals should

† Indicates that the remarks or speeches have not been revised by the member concerned

be made unless the tax is paid both under Sales Tax and Income-tax. That is the principle in granting stays.

Sri G. N. PUTTANNA.—Are the Government aware that under section 12 (b), the officer assessing sales-tax should furnish reasons in writing when he assesses or orders to the best of his judgment.

Sri J. H. SHAMSUDDIN.—That is a different question. This is outside the scope of the question.

Sri G. N. PUTTANNA.—It is a correct question. Officers without rhyme or reason,.....

Sri J. H. SHAMSUDDIN.—The question relates to appeals. It does not relate to original assessment.

Sri G. N. PUTTANNA.—Even in appeals, the Deputy Commissioners are not prevented from passing an order of stay even when the amount is not fully paid, but only the admitted tax is fully paid. Your statement is not correct. I want the Government to clarify that position. Should he pay the assessed tax or the admitted tax when he goes on appeal?

Sri J. H. SHAMSUDDIN.—It is difficult to distinguish *prima facie* by an appellate authority which is admitted tax and which is assessed tax.

Sri G. N. PUTTANNA.—Admitted tax is assessed tax. Tax levied is tax levied after assessment. That is the difference.

Sri J. H. SHAMSUDDIN.—If the officer does not admit what has been admitted by the assessee, naturally, the assessed tax becomes a liability.

Sri B. VAIKUNTA BALIGA.—Sir, may I know the policy of the Government in saying that until the entire amount of tax is paid, appeals will not be considered or stay not given?

Sri J. H. SHAMSUDDIN.—The question of granting stay is in the judicial discretion of the officer. Normally he does not exercise it, because it is turned down that no appeal lies unless the assessed tax is paid.

Complaints against the H. M. T. Management for violation of the Code of Discipline.

*Q.—15. **Sri M. C. NARASIMHAN** (Kolar Gold Fields).—

Will the Government be pleased to state:—

(a) whether they have received complaints from the employees of the Hindustan Machine Tools stating that the management have violated the code of discipline and the terms of agreement entered into with the Employees' Association;

(b) whether the Government have taken any action in this behalf?

A.—**Sri T. SUBRAMANYA** (Minister for Law, Labour and Local Self-Government).—

(a) Complaints from not only Hindustan Machine Tools Employees' Association but also from the Management have been received regarding the alleged violation of the code of discipline. The State Government is not aware of any agreement entered into between the Hindustan Machine Tools Employees' Association and the Management.

(b) Action is being taken by the Labour Department to conduct an enquiry into the whole matter.

Sri M. C. NARASIMHAN.—Is the Government aware that an agreement was entered into between the Hindustan Machine Tools Employees' Association and the Management in respect of the Joint Council of Management which was printed and circulated to all the Labour Department officials of the Government of Mysore and that it was also screened as one of the information documents?

† **Sri T. SUBRAMANYA.**—I am aware that the Employees' Association was represented on the Joint Council of Management.

Sri M. C. NARASIMHAN.—Which is correct—what you say now or what you have stated in the printed answer?

Sri T. SUBRAMANYA.—We are not aware of what you say in clause (a) of your question.